



THE INTERIM

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THE INTERIM

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THE INTERIM is a monthly newsletter that reports on the interim activities of legislative committees, including the Legislative Council, the Environmental Quality Council, the Legislative Finance Committee, the Legislative Audit Committee, and interim legislative committees and subcommittees staffed by the Legislative Services Division. Information about the committees, including meeting schedules, agendas, and reports, is found at <http://www.leg.mt.gov>. Follow the "Committees" link or the "Interims" link to the relevant committee. The newsletter is posted on the legislative branch website on the first of each month (follow the "Publications" link).

SURVEY SEEKS SUGGESTIONS FOR WEBSITE IMPROVEMENT

Legislative branch to conduct online survey...The Montana legislative branch is reviewing its website with an eye toward making improvements to content, design, navigation, and organization.

The first step will be a survey of website users, to invite their ideas for how to make the site better. A brief online survey will be available through Dec. 31 on the home page of the website at www.leg.mt.gov.

"We recognize that many different types of people use the legislative website for many different reasons," said Gayle Shirley, legislative information officer. "To make the site as useful and useable as possible for all of them, we need their input. We need to understand their needs and expectations."

Shirley said she hopes to hear from legislators, legislative staff, state agency employees, lobbyists, advocates, educators, and the general public.

Shirley chairs a work group made up of legislative employees who advise on website content and organization. The group includes representatives of the legislative fiscal, audit, and services divisions.

"We have a lot of good ideas," she said, "but we realize that we're more likely to have a successful website if we hear from a broad range of customers."

Shirley will promote the survey through the news media and organization newsletters and invites others to do the same. Legislators and staff are encouraged to participate.

For more information about the survey or the legislative branch website, contact Gayle Shirley, legislative information officer, at (406) 444-2957 or gshirley@mt.gov

REVENUE AND TRANSPORTATION COMMITTEE

Committee meets two days in December...The Revenue and Transportation Committee is meeting Thursday, Dec. 6 at 8 a.m. and Friday, Dec. 7 at 7:30 a.m. The committee will meet both days in Room 137 of the Capitol. The committee will recess before noon on Thursday to attend the Montana Taxpayers Association annual meeting at the Helena Regional Airport conference room. Parking permits will be available for all attendees.

HB 9 property tax credit to be discussed...House Bill 9, enacted during the May 2007 special session, provided a \$400 property tax rebate and a property tax income tax credit for tax year 2007 if state general fund revenue received in fiscal year 2007 exceeded a certain amount. The Department of Administration certified that the so-called trigger amount for allowing the credit had been exceeded. At the Sept. 19 the Revenue and Transportation Committee meeting, Terry Johnson, Legislative Fiscal Division staff, told the committee that DOA had not used the method specified in the legislation for determining general fund revenue. Lee Heiman, staff attorney, will discuss a legal memo regarding the trigger language in HB 9. He will also discuss

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a request for a declaratory judgement filed in District Court that the trigger amount was not met.

Johnson will provide an update on state general fund collections in fiscal year 2008.

Larry Swanson, director of the Center for the Rocky Mountain West, will talk about demographic trends in Montana. The committee wants to have an understanding of these trends, particularly of the aging population and school-aged children, as part of its SJR 31 study of school funding and property taxes. The discussion may also have pertinence for the HB 488 property reappraisal study.

Other agenda topics...The committee will reconvene Friday morning, Dec. 7, to consider a number of topics. The committee is studying the conformity of state individual and corporation income tax laws with federal tax laws (HJR 61). Harley Duncan, executive director of the Federation of Tax Administrators, will discuss the implications of state conformity with federal laws. A representative of the Montana Society of Certified Public Accountants and the Department of Revenue will also provide their insights. The committee will review background information on the SJR 31 study of school funding and property taxes. The Department of Revenue will provide an update on the development of rules for tax increment finance districts, a meeting with Montana Society of CPAs on tax administration, and other reports. The Department of Transportation will report on the highway revenue account.

Want to be in the loop?...The agenda and staff reports are available on the committee's webpage. For more information about the committee, contact Jeff Martin, committee staff, at (406) 444-3595 or jmartin@mt.gov, or Fong Hom, committee secretary, at (406) 444-0502 or fhom@mt.gov. Lee Heiman is the staff attorney and can be reached at (406) 444-4022 or lheiman@mt.gov.

LEGISLATIVE FINANCE COMMITTEE

LFC to Meet in December...The Legislative Finance Committee will meet Tuesday and Wednesday, Dec. 11 and 12 in Room 102 of the Capitol beginning at 2 p.m. on Tuesday and 8 a.m. on Wednesday. The agenda and various reports are available on the Legislative Fiscal Division website at <http://www.leg.mt.gov/css/fiscal/lfc.asp>. For more information about the finance committee, contact Clayton Schenck at cschenck@mt.gov or (406) 444-2986. The tentative agenda includes the following topics:

- an update of fiscal year 2008 general fund revenue collections;
- a lawsuit on HB 9 property tax income tax credit;
- a primer and update on the Treasure State Endowment Program;
- an analysis of the workers' compensation old fund;
- a study proposal for the State Fund Subcommittee;
- an information technology management update;
- an update of the 2007 fire season, including costs;

and

- updates and discussion of interim studies and projects.

The performance measurement work groups will meet on Dec. 11 at 9 a.m., first jointly and then in their respective budget sections (A through E). The subcommittee for the study of the budget and appropriations process (Room 137) and the subcommittee for the study of long-range planning (Room 350) will both meet at 5 p.m. Dec 11.

EDUCATION AND LOCAL GOVERNMENT COMMITTEE

Meetings scheduled for December...The K-12 Subcommittee, the Postsecondary Education Policy and Budget Subcommittee, and the HB 49 Subcommittee will meet Thursday, Dec. 13, and the Education and Local Government Interim Committee will meet Friday, Dec. 14. The K-12 Subcommittee and PEPB Subcommittee will meet jointly Thursday afternoon.

K-12 Subcommittee...The K-12 Subcommittee will meet Dec. 13 at 10 a.m. in Room 137 of the Capitol. The Department of Administration will report on the statewide school facilities inventory. The inventory is required under HB 1, enacted during the December 2005 special session. The subcommittee will receive an update on full time kindergarten over its first few months of implementation and will hear a summary of the Indian Education Achievement Gap summit recently held in Helena.

Subcommittees meet jointly...The K-12 and PEPB subcommittees occasionally meet jointly to discuss areas of common interest. The subcommittees will meet Dec. 13 at 2:30 p.m. Staff from the Office of Public Instruction, the Office of the Commissioner of Higher Education, and the Board of Public Education will discuss college preparedness and remedial courses. They will discuss why a significant number of college freshmen need to take remedial courses and offer recommendations for reducing the need for remedial courses.

Representatives from Louisiana and Wyoming will discuss the Taylor Plan. The plan, conceived by Patrick Taylor of Louisiana, provides college scholarships for low and moderate-income students based on academic achievement. In 2005, Wyoming became the 22nd state to enact a similar plan.

The full committee will take up this topic on Friday at a working breakfast. The breakfast will be at Jorgenson's

Restaurant and Lounge (1720 11th Avenue, Helena, MT) from 7:30 a.m. to 9 a.m.

Education and Local Government Committee...The full committee will convene Dec. 14 at 9:30 a.m. in Room

137 of the Capitol. Agenda items include:

- a summary of the subcommittee meetings;
- a discussion of school funding in the second year of this biennium;
- a discussion of the May 2007 ruling on distance learning by the Board of Public Education;
- a report on 529 college savings plans in Montana;
- a presentation on the distribution of Treasure State Endowment Program funds and implementation of HB 512;
- a discussion with representatives of the Montana Quality Education Coalition;
- an overview of postsecondary correctional education; and
- an update on performance measurements for education.

Want to know more...A meeting schedule, agendas, meeting materials, and other information are on the committee's webpage. Contact Casey Barrs at (406) 444-3957 or cbarrs@mt.gov for more information.

ENERGY AND TELECOMMUNICATIONS COMMITTEE

Energy topics and model legislation considered by committee...Carbon sequestration continues to top the Energy and Telecommunications Interim Committee's agenda, but a myriad of new topics also are capturing the committee's attention.

The ETIC met Nov. 8 in Helena to take up coal-to-liquids production in Montana and the Universal System Benefits program. A coal-to-liquids panel included Paul Cartwright, Department of Environmental Quality; Chuck Kerr, Great Northern Properties; and Chuck Magraw, Natural Resources Defense Council. Greenhouse gas emissions, water usage, economic hurdles, and the need for a regulatory framework were covered during the discussion.

"If we are in a carbon sequestration world, fine, you have to provide the framework in order for us to be able to do it," Kerr said.

With that in mind, the ETIC continues its review of carbon sequestration. Terrestrial sequestration, carbon management, and surface vs. subsurface rights were covered at the November meeting. Committee members also received a questionnaire aimed at narrowing the sequestration study.

In October, the U.S. Environmental Protection Agency announced its plans to develop a regulatory framework for the injection of carbon into the subsurface.

The regulations won't be released for public comment until next summer, and federal regulations may circumvent some state sequestration efforts. The ETIC is continuing to explore areas where state regulations may be necessary.

Committee members requested additional information on "model" carbon sequestration legislation offered by the Interstate Oil and Gas Compact Commission. Montana is one of the commission's 33 member states. The legislation is based on an examination of the technical, policy, and regulatory matters related to sequestration; an assessment of the current regulatory framework that may be applicable to sequestration; and guidance documents for states adapting their regulatory regimes to accommodate sequestration.

Committee members also were briefed on the Universal System Benefits program in Montana. The electric USB currently in law expires in December 2009. ETIC members requested a bill draft that eliminates the sunset.

Committee to meet late January...The ETIC meets again Jan. 24 in Helena. Wind integration and a discussion of public power models employed around the country are expected to be on the agenda. The committee also will review the proposed USB legislation and continue with its carbon sequestration study.

Details available...Information on the January meeting and other committee information can be found on the committee's webpage. For more information contact Sonja Nowakowski at snowakowski@mt.gov or at (406) 444-3078.

STATE ADMINISTRATION AND VETERANS' AFFAIRS COMMITTEE

Election law, public retirement systems highlighted at November meeting...The State Administration and Veterans' Affairs Interim Committee met Nov. 30 in Helena. The committee discussed election laws, the state's public employee retirement systems, and committee members' issues. Among the members' issues, the committee discussed the rates of reimbursement for meals, lodging, and mileage provided for in statute (sections 2-18-501 through 2-18-503, MCA). The outcome of that discussion will be reported in the January issue of *The Interim*.

HJR 46 Study of Election Laws...The committee's primary focus at the November meeting was the HJR 46 study of election law. Three panels presented different perspectives on three broad, election-related topics: (1) School Elections: How and When?; (2) Election Funding and Resource Issues; and (3) Mail Ballot Elections. Coverage of the panel presentations and committee deliberations will appear in the January issue of *The Interim*. For more information about the study of election laws, contact Sue O'Connell at (406) 444-3597 or soconnell@mt.gov, or check

the HJR 46 link on the SAVA web site.

HJR 59 Retirement Study...Committee members worked through an issues and options decision tool to assess their priorities on public employee retirement policy. The exercise helped clarify the policy categories that should be considered before the next regular legislative session in 2009. The categories included questions about: retirement plan theory and design; retirement plan practices in Montana and in other, selected states and jurisdictions; and factors and assumptions that affect the actuarial soundness of Montana's public employee retirement plans. The committee also narrowed its overall goals and objectives regarding the desired outcome of the study.

Next meeting in January...The State Administration and Veterans' Affairs Committee is scheduled to meet on Monday, Jan. 7, in Room 102 of the Capitol. Election laws and the state's retirement systems will likely be a significant part of the meeting, with other agenda items to be determined. The agenda for the January meeting will be posted on the committee's webpage after it is approved by the presiding officer, and it will be updated as necessary. For more information about the committee, contact Dave Bohyer, committee staff, at dbohyer@mt.gov or (406) 444-3064, or Rep. Franke Wilmer, the committee's presiding officer, at (406) 599-3619.

ECONOMIC AFFAIRS COMMITTEE

Committee meets in Miles City...The Economic Affairs Interim Committee met in Miles City on Nov. 7 and 8 to discuss health care financing, value-added agriculture, and economic development. The meeting was the first to be held out of Helena in keeping with committee's goal of visiting different parts of the state during the interim.

Susan Fox, the executive director of Legislative Services, said that the meeting in Miles City was a renewed trend of outreach to local communities. "One of the things we were hearing after this last session was legislators commenting on the great efforts citizens make to get to Helena and be a part of the legislative process. I think meetings such as this one are a way of legislators wanting to show their appreciation," Fox said. "It's also a great opportunity for them to listen to local concerns and voices outside of their own constituencies in their role as state officers."

Economic development and value-added agriculture are themes of panel discussions...As part of the outreach effort, two panel discussions during the committee's Nov. 8 meeting featured local officials, agriculture experts, and business leaders from southeastern Montana.

Miles City Mayor Joe Whalen welcomed the committee and expressed appreciation for the opportunity to discuss topics of importance to the area: "Miles City is a long

way from Helena. The physical distance can also create a political and cultural divide between our communities in the southeast and state government. How refreshing, then, that a Legislature known primarily for its own divisions has come together by dispatching this interim committee to our area to hear our concerns, explore policy considerations, and attempt to align the interests of state and local officials."

Whalen was joined in an economic development panel discussion by County Commissioner Jack Nesbit, local business leader Butch Krutzfeldt, and economic development experts in southeastern Montana, including Kent Williams, Jim Atchison, and Mike Carlson. Panel members agreed that economic development in the region focuses primarily on maintaining an economic pace rather than looking to recruit large-scale employers.

Workforce shortages, the loss of young people to larger communities (especially out of state), and aging infrastructure remain challenges that committee members said will take interagency cooperation, including state and federal participation.

Mike Carlson discussed wind power, showing the same information he presented recently in North Dakota to a conference attended by the heads of the U.S. Departments of Commerce and Agriculture.

Committee looks at ways to enhance value-added agriculture...As part of the SJR 13 study of value-added agriculture, professor Neva Hassanein of the University of Montana and her graduate student, Jessica Babcock, released preliminary survey results of their study on the subject. Professor Bruce Bainbridge of Dawson County Community College said he works with area ranchers and farmers to develop a hands-on approach to value added. He also provides technical assistance across the country.

Gene Buxcel of the Dawson County Economic Development Council talked about programs in other states that bring capital to local communities.

Finally, Bruce Smith, the extension agent in Glendive, said that he believes grass roots projects with farmers or ranchers is what is needed to revitalize the competitive edge in rural counties.

"People will be surprised to hear me, of all people, say we need to be looking at small projects for right now, but we need to begin somewhere and we won't get back to where we used to be in Montana 50 years ago overnight," Smith said. (Smith, a former center for the MSU Bobcats basketball team, stands 6'9".)

Committee hears update on workers' comp... Committee members Reps. Mike Milburn and Bill Thomas, discussed their duties as liaisons to the Board of Directors of the State Compensation Insurance Fund. They stressed that the insurance fund is an executive branch function, but their role is to monitor and bring back information both to the committee and the Legislature, as appropriate. They said they will be tracking the solvency of the old fund, increased medical costs, and the reasons why Montana has some of the highest workers' comp rates in the nation. Milburn gave a progress report on plans for a new state fund building to be

built near the Great Northern Town Center in Helena.

Havre is next road trip... The Economic Affairs Interim Committee plans to meet next in Havre on Feb. 7. For more information, contact Andrew Geiger, committee staff, at angeiger@mt.gov or (406) 444-5367.

HJR 48 Subcommittee reviews Massachusetts insurance plan.... The HJR 48 subcommittee, assigned to study health insurance and public health coverage reforms, met Nov. 7 in Miles City at Holy Rosary Hospital and heard about Montana's current health insurance policy. Rep. Gary MacLaren, the sponsor of HJR 48 and subcommittee member, provided the subcommittee with an overview of the Massachusetts health insurance reforms and a review of the demographic and regulatory environment that Massachusetts had prior to adopting reforms to expand insurance coverage for its citizens. The following table shows some of the differences between Massachusetts and Montana.

Comparison of Demographics and Insurance Regulations, Massachusetts and Montana

Background	Massachusetts	Montana
Employer environment	More large businesses (49% over 100 employees). More than 96% of these offer insurance*	More small businesses (roughly 18% of businesses have 1-9 employees) Less than 55% offer insurance help*
Uninsured	7%	19%
Regulatory environment	Insurance guaranteed-- regardless of preexisting conditions Community rating Insurance commissioner regulates rates	Only small employer (2-50 employees) group insurance is guaranteed issue No community rating Insurance commissioner does not regulate or review rates, just forms
Plan types	Several managed care plans dominate insurance offerings	One insurer dominates offerings with a variety of plans

*For details see the Economic Affairs Committee website for the Nov. 7 meeting.

In addition to the speakers listed in the November issue of *The Interim*, State Auditor John Morrison and Owen Voigt of the Montana Association of Counties Health Care Trust presented information on health insurance. Morrison reported on Insure Montana and summarized an initiative that he and others have proposed for insuring all Montana children under the federal-state Children's Health Insurance Plan. Voigt talked about the health insurance coverage offered to county employees in Montana.

On the horizon.... The HJR 48 Subcommittee will meet on Feb 8 to evaluate health insurance reforms in states other than Massachusetts. In addition, invited speakers and staff will review what other states have done to expand health coverage under Medicaid or CHIP. The subcommittee is still gathering information about insurance reforms. For more information on the Feb. 8 subcommittee meeting, contact Pat Murdo at pmurdo@mt.gov or at (406) 444-3594.

FIRE SUPPRESSION COMMITTEE

Inaugural meeting convened... Sen. John Cobb will lead the Fire Suppression Committee as chair, with Rep. Bill Wilson serving as vice chair, FSC members decided at their Oct. 29 meeting. The elections marked the beginning of FSC's inaugural meeting, which included details about fiscal year 2008 fire suppression costs; discussions with state, federal, and local fire management agency personnel; testimony from interested individuals and organizations; and review of potential study topics.

Costs are climbing... Barb Smith, FSC's fiscal analyst, told the committee that because of some potential changes to the cost share agreements for the Brush Creek and Chippy Creek fires, in addition to other, less significant, cost adjustments, the state's unfunded fire costs increased from \$200,705 (an Oct. 4 estimate) to a little over \$6.4 million (an Oct. 26 estimate). While the increase in this instance is due to the cost share calculations that the various involved agencies have negotiated, the theme of increasing costs for fighting fires dominated committee discussions and is one of the primary reasons for FSC's existence. All indications are that in the coming years, fires will continue to be larger, will exhibit more extreme behavior, and will be more expensive to fight and to manage. This message was not lost on FSC members. Their challenge, however, is implementing an appropriate legislative response to the increase that will not compromise the safety of firefighters or the public.

2007 fire season in the rear-view mirror (or not?)... Staff of the Department of Natural Resources and Conservation provided FSC members with a retrospective of the 2007 fire season (which, as the wind-driven fires that erupted near Melville during the weekend of Nov. 10-11 would indicate, is not yet over). The common theme was increase: in cost, in number of fires, in severity and duration of fires, and in development in the wildland-urban interface (WUI). And the increases are linked. According to DNRC's report, "for fires occurring on DNRC direct protection occurring from 1996-2006, large fires in the WUI cost an average of 46% more to suppress than non-WUI fires." DNRC's report offered four long-term solutions to mitigating fire costs:

- continued investment in DNRC's initial attack capabilities, including use of severity resources during extreme fire danger;

- active forest management and restoration activities to improve forest health and reduce hazardous fuels;
- support for DNRC's County Cooperative Fire Program, the federal Volunteer and Rural Fire Assistance program, and other programs whose aim is to ensure that local fire organizations have the necessary equipment and resources; and
- continued public education about homeowner responsibility that comes with living in the wildland-urban interface, as well as financial assistance and incentives for private landowners to create defensible space.

No simple solutions...Bob Harrington, DNRC's Forestry Division administrator, cautioned the committee that he saw no silver bullet solution to the problems that policymakers face when confronted with more severe fires and increasing costs associated with managing them. He did, however, provide some suggested study topics and questions the committee may want to consider. The general topics included wildland-urban interface; federal forest, wildland fire, and budget management policies and how they differ from the state's policies; resources for state and local government wildfire response; role of private contractors in wildland fire suppression; funding for state and local government wildland fire preparedness and suppression costs; and how the current wildland fire protection structure works for Montana.

Federal agency testimony...Federal agency representatives who addressed to the committee also spoke to the increasing number and severity of wildland fires and touched on the policy differences among the agencies. A report provided by the U.S. Forest Service discusses the evolution of the agency's fire management policy. The Northern Region's 2001 Federal Wildland Fire Management Policy reads:

Fire, as a critical natural process, will be integrated into land and resource management plans and activities on a landscape scale, and across agency boundaries. Response to a wildland fire is based on ecological, social, and legal consequences of the fire. The circumstances under which a fire occurs, and the likely consequences on firefighter and public safety and welfare, natural and cultural resources, and values to be protected dictate the appropriate management response to the fire.

The Forest Service also provided a list of strategies to reduce wildfire costs, including endorsement of a forest restoration plan developed by the Montana Forest Restoration Committee. "Most of Montana's forests depend on fire to maintain their health," the report reads. "Fire suppression has resulted in conditions conducive to intense and rapid moving fires. Forest restoration is intended to

reduce fire intensity and spread, providing a means of protecting communities." Another way to control costs, according to the report, would be to develop additional wildland fire use plans for areas outside wilderness where active restoration management is not feasible.

Additional comments offered by the Forest Service included:

- The Lolo National Forest saw a 98 percent success rate on initial attack fires.
- The trends in national forests are staff reductions and budgets that remain the same while costs of fire suppression continue to increase.
- The budget for fuels reduction has increased.
- It is problematic that there is not consensus on how forests should be managed.
- The Forest Service manages fires on certain lands in Montana, Idaho, and Wyoming for resource benefits, which is not, it was stressed, a "let it burn" policy; rather it was characterized as "aggressive management".

Contractor dissatisfaction...During the public comment period, a number of private contractors expressed dissatisfaction with the way their services were acquired and used during the season and their inability to participate in state-sponsored training. Fire professionals seem to agree that contracted services and equipment play a vital role in mitigation and suppression activities, but the administration of contracted services is a source of discord about which the committee will learn more as the interim progresses.

What is working...Participants in the public comment period also focused on what is working in the fire suppression arena:

- cooperation among the various agencies;
- mutual aid agreements;
- fuel mitigation programs such as Firewise;
- training programs;
- DNRC's County Cooperative Program and other local assistance.

November meeting...The FSC scheduled a second meeting for Nov. 26, intended to be an educational session on interagency management of wildland fires in Montana. The committee also scheduled tours of DNRC's aviation facility, the Helena Interagency Dispatch Center, and a fuels mitigation project south of Helena. FSC will approve an interim meeting schedule and work plan--including dates for the field hearings--at the beginning of the November meeting.

Information available electronically...More information, links to wildfire-related websites, and maps are all posted on FSC's webpage. For more information about FSC's activities, contact Leanne Heisel, FSC staff, at (406) 444-3593 or lheisel@mt.gov.

CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES COMMITTEE

EMS providers offer perspectives...Emergency medical service providers from around Montana gave the Children, Families, Health, and Human Services Interim Committee an idea last month of just how difficult it is to operate ambulance services in some parts of the state, particularly where distances are great and residents are few.

The committee heard at its Nov. 16 meeting from several providers and hospital officials, who discussed the challenges facing Montana's EMS system as part of the SJR 5 study of emergency medical services.

Teresia Moore of Culbertson and Delbert Abbey of Philipsburg discussed the difficulty of keeping ambulances staffed as required by law when only a handful of volunteers are available to provide the 24-hour coverage needed every day of the year. At times, the services are unable to respond to calls. Joleen Weatherwax of Browning said training is expensive and often offered only at larger population centers, making it difficult for staff members to attend. All said replacing equipment is also tough, particularly for volunteer services that rely on fundraisers for some of their budget.

The speakers also said that Medicare and Medicaid reimburse ambulance services at a rate that is lower than their costs--a problem echoed by several private ambulance providers who spoke to the committee.

John Bleicher of St. Patrick Hospital in Missoula and Scott Mitchell of Wheatland Memorial Hospital in Harlowton talked about the important role EMS providers play in the emergency care system, stressing the need to ensure that those who respond to calls have good training and their work is reviewed routinely as a quality assurance measure.

SJR 15 "bull dog" committee....The committee approved use of a "bull dog" committee to tear into the meaty issues involved in SJR 15, a study generally on health care access and delivery but more specifically on the existence of specialty hospitals and the use of economic credentialing. Senate Bill 417, enacted in the 2007 regular session, revised the definition of a specialty hospital, provided for licensing procedures, and extended to July 1, 2009, a moratorium on licensing specialty hospitals. Lawmakers also approved an economic credentialing bill in 2007. Senate Bill 312 prohibited hospitals from refusing hospital privileges to a physician who either directly or indirectly through family members or affiliated staff has an ownership interest in a competing health care facility. Under 50-5-117, MCA, a hospital may engage in economic credentialing only for Medicare certification or accreditation and may refuse to appoint a physician to the hospital's governing body, if the physician has an economic conflict of interest. That statute terminates June 30, 2009.

Committee members Sen. Dan Weinberg and Rep. Ernie Dutton have tentatively scheduled a Jan. 24 meeting of interested stakeholders, including representatives of

hospitals, physicians, ambulatory surgical centers, physical therapists, imaging centers, and anyone else interested in specialty hospitals and economic credentialing. The first meeting will be in Room 137 of the Capitol. Among possible topics for discussion are:

- the conditions under which a moratorium should be allowed for specialty, for-profit hospitals;
- the intersection of economic credentialing and physician autonomy; and
- suggested solutions to the conflicts between for-profit and nonprofit health care providers, health care costs and quality, and coverage of uncompensated care.

Mental health study moves forward...The committee agreed on the scope of a mental health study approved in the May 2007 special session, deciding it should focus broadly on determining what mental health services are still needed in Montana and on finding additional federal or state dollars that could be spent on mental health.

The committee set out those principles by approving a Request for Proposals from consultants who can undertake the study, for which \$200,000 was appropriated. The RFP asks that the consulting firm undertake three tasks:

- assess the needs of Montana's mental health system by establishing the number and location of Montanans in need of mental health services, identifying the services that currently exist, and determining the gap between what is needed and what exists;
- inventory the resources currently available for funding the public mental health system and provide ideas on ways to leverage additional federal or state funds; and
- identify ways in which Montana's existing publicly funded mental health services could be better integrated or coordinated to meet the needs of both children and adults.

The draft language in the RFP emphasizes that the study must recognize the rural nature of Montana and the fact that many areas are considered frontier areas for health services, based on their very sparse populations.

The RFP will be open for six weeks after it is issued. The committee will hold a telephone conference call to award the contract before its next scheduled meeting on Jan. 25, 2008.

DPHHS proceeds with new mental health initiatives...Committee members heard an update on the progress of several community-based mental health initiatives approved and funded by lawmakers earlier this year.

Joyce DeCunzo, head of the Addictive and Mental Disorders Division of the Department of Public Health and

Human Services, said the department has:

- added funds to its contracts with the four community mental health centers to provide additional services to individuals with severe and disabling mental illness under expanded funding for the state Mental Health Services Plan;
- hired a suicide prevention coordinator, who will develop a new statewide suicide prevention plan;
- started work on the details for putting in place a system that will reimburse providers for 72 hours of stabilization services for a patient in crisis, if no other payment is available to the provider. The same initiative calls for the use of telemedicine services to increase the availability of professionals who can provide services on call, and the division is working to determine how those services might be obtained.
- awarded an RFP for development of eight residential treatment homes for people with meth or other substance abuse problems;
- started work on an RFP for new mental health drop-in centers around the state; and
- begun development of rules for a behavioral health inpatient facility (BHIF) that will house 16 or fewer people in a community. The department is concerned that the facility won't qualify for Medicaid reimbursement under the current terms of the state Medicaid program.

The committee asked DeCunzo to explore obtaining a Medicaid waiver to allow a BHIF to bill Medicaid for patients it serves and to report at the next meeting. Committee members expressed concern that no mental health providers would want to build or operate BHIFs-- seen as a good community-based alternative to commitment

to the Montana State Hospital--if Medicaid reimbursement is not available for the services.

DPHHS Update....DPHHS Director Joan Miles told the committee that the agency is looking at ways to reduce the number of people being treated at the Montana State Hospital, because the number of patients is consistently higher than the number the hospital is designed and funded to serve.

She said the state hospital is licensed for a patient population of 189, but the hospital's census is 20 or 30 people higher than that on a daily basis. Reducing the population will take a strong commitment to building community services, she noted, adding that the hospital staff is also evaluating each patient--including criminal offenders-- more closely to see if another placement would be more appropriate.

Miles said the department is also taking steps to increase wages for the nursing staff at the hospital, to ensure

it has enough employees to staff the hospital fully. She said nurses at the hospital were making about \$2 to \$2.50 an hour less than were nurses at other state facilities in the Deer Lodge valley.

Miles and Deputy Director John Chappuis also told the committee that:

- work is underway to put in place a grant program funded by the Legislature, through House Bill 406, to create or expand a federally qualified community health center, as a way to improve primary health care to uninsured, underinsured, or low-income Montanans;
- Congress may put a moratorium on a proposed federal rule that would have adversely affected the way Montana's therapeutic foster care homes and therapeutic group homes are reimbursed by Medicaid; and
- the state Children's Health Insurance Program is on solid financial footing for the time being, even though Congress has not approved a long-term reauthorization of the program that called for an increase in funds for the states. Congress has extended the current program through continuing resolutions. The program is now serving more than 15,500 children in Montana, after the Legislature raised the income eligibility level from 150 percent to 175 percent of the federal poverty level.

Next meeting set for Jan. 25...The committee's next regularly scheduled meeting is Jan. 25 in Room 137 of the Capitol. However, the committee plans to conduct a telephone conference call in mid-January to award the contract for the mental health study; the date has not yet been determined. Stay tuned to the committee's web site at www.leg.mt.gov/css/committees/interim/2007_2008/child_fam/default.asp for the latest news on schedules and activities and to obtain staff reports and other meeting materials as they become available.

Questions?....Please contact Sue O'Connell at 444-3597 or soconnell@mt.gov for more information about committee activities.

LAW AND JUSTICE COMMITTEE

Two-day meeting in the Mining City...As part of a two-day meeting in Butte on Nov. 8 and 9, the Law and Justice Interim Committee examined the sentencing of persons convicted of drug possession or drug use, or both, and discussed with a panel of speakers the problems associated with the laws governing involuntary commitments to the Montana State Hospital.

Drug offender data...Sheri Heffelfinger, committee staff, presented a report on drug offender sentencing data

collected for fiscal years 2003 through 2007. The data showed that:

- drug offenses are the second-largest category of crime in Montana, accounting for 26 percent of all sentences for criminal activity;
- fifty-eight percent of the sentences for drug offenses were for drug possession or drug use, or both;
- for drug possession and/or drug use offenses, 47 percent of the offenders received deferred sentences, 29 percent received suspended sentences, 19 percent were sentenced to the Department of Corrections for placement; and 5 percent were sentenced to prison;
- for first-time drug offenses, 56 percent of the offenders received deferred sentences, 27 percent received suspended sentences, 14 percent were sentenced to the Department of Corrections for placement, and only 3 percent were sentenced to prison;
- for second-time drug offenses, 42 percent of the offenders received suspended sentences, 39 percent were sentenced to the Department of Corrections for placement, 12 percent were sentenced to prison, and 7 percent received deferred sentences;
- for third-time drug offenses, 54 percent of the offenders were sentenced to the Department of Corrections for placement, 29 percent received suspended sentences, 14 percent were sentenced to prison, and 3 percent received deferred sentences.

The report also analyzed sentences based on the offender's criminal history. A copy of the report is available

on the committee's website under staff reports for the SJR 24 study or under meeting materials for Nov. 8-9.

Involuntary commitments...A panel representing health care providers, county attorneys, public defenders, district court judges, and county commissioners discussed civil involuntary commitments to the Montana State Hospital. By law, when an individual in a mental health crisis is detained at a hospital, and if the county attorney files a petition to commit the individual to the state hospital, counties are the payer of last resort if costs cannot be recovered from the individual, private insurance, or a public assistance program. Hospitals incur significant costs for initial detention and treatment, especially if the county attorney does not file a petition for involuntary commitment. Counties also incur significant costs when there are court and treatment delays from the time the involuntary commitment petition is filed and the individual is committed to the state hospital. Counties also incur significant costs for transporting an individual to the Montana State Hospital, or, if they do not use the state hospital for initial detention, significant per diem costs for detention and treatment of the individual at a local facility.

Following the panel discussion, the committee requested that a survey be sent to the county commissioners of each county. The purpose of the survey is to assess each county's expenses associated with the detention, examination, treatment, and transportation of mentally ill individuals committed to the Montana State Hospital. The committee also requested a survey of hospitals to assess their costs related to detention and treatment.

November and January meetings...The committee met Nov. 30 in Helena. Coverage of that meeting will appear in the January issue of *The Interim*. The committee is also tentatively scheduled to meet January 10-11 in Helena.

For more information about the committee, contact Sheri Heffelfinger at (406) 444-3596 or sheffelfinger@mt.gov.

THE BACK PAGE

I ♥ THE MONTANA LEGISLATURE

By Susan Fox, Executive Director
Montana Legislative Services Division

At a recent training session, I was musing on the idea of a button or bumper sticker that would say "I ♥ the Montana Legislature." I wondered what it would take to make that true, for me, for my staff, for legislators, and especially for the public. Recent events suggest that not many people would wear my button or slap the bumper sticker on their car.

The Legislature seems to be on everyone's mind these days: its members' behavior, its composition, how it works, when and how often it meets, term limits, etc. A Wheeler Center conference this fall focused on strengthening and reforming the legislative process, and Humanities Montana included the Legislature in a discussion of public discourse in Montana. References to bitter partisanship and legislative rancor by the media and at these conferences have led to discussions of legislative civility and reform. Although the Legislature eventually passed the budget to fund state government and enacted a host of other legislation, people don't seem to be very satisfied with the legislative branch of government. In working with staff from other states, I have discovered that Montana is not the only state legislature experiencing public scrutiny and displeasure.

I think by now that we have all heard the message loud and clear. In September, the Legislative Council and managers of the Legislative Services Division held a strategic planning session and discussed the legislative institution and what we need to do to strengthen it and the legislative process. There are many reasons for incivility, but term limits seem to have had a significant effect on the institution, including reducing the time legislators have to get to know one another and develop the trusting relationships necessary to forge agreements or compromise.

Term limits may or may not be the main problem, but certainly contribute to the situation, and it is problematic whether there is public desire or leadership to do away with them. Term limits may intensify the pressures felt by every legislature. Partisanship is mentioned often, yet the states reflect the partisanship seen at the national level. Razor-thin margins contribute to the majority and minority parties switching more often. The problem will be compounded by retirements throughout government.

The Legislative Council has come to understand that those of us involved in the institution need to effectively portray the Legislature and its hard work in a positive manner. And I think that this can be a call to action for all of us who care about the institution. This includes exhibiting civility not only during the legislative session, but in all situations. How we speak about the Legislature in conversation and

presentations, and how candidates campaign can affect the public perception of the Legislature, positively or negatively. The public needs to hear more about the process and about the good things that legislators have accomplished, because these stories don't always make the news.

The Legislature is a political institution. It is meant to be a place of debate and deliberation so that all viewpoints can be heard before final action is taken. It is not designed to be efficient--remember the sausage metaphor? It is our responsibility to educate constituents about the process and how to participate effectively in it.

That the Montana Legislature is evenly divided tells me that the public in Montana is not of a single mind and that there is no clear majority. When opposing groups have a relatively equal share of power, the tension and conflict between them is greater. The Legislature is no exception. People tend to avoid conflict, so it makes sense that the public may not appreciate that debate and conflict are what the Legislature is all about. It is the place where diverse groups debate in order to reach agreement. It is the place in which compromise isn't selling out, but is the true art of negotiation that brings diverse interests together to try to find common ground.

At the strategic planning session, Legislative Council members had the opportunity to get to know one another and staff better. A common theme of the session was developing respect for the institution and instilling public trust in the legislative process. By engaging in discussions and small-group work, council members and staff generated many ideas that will be on the council's agendas to help strengthen the institution. Some of these ideas include:

- providing more opportunities for legislators to get to know one another better as individuals;
- developing a convenient schedule for post-election and session training and for policy caucuses;
- conducting a review of legislative rules;
- dealing with the large number of bill draft requests and duplicate requests;
- increasing the amount of training and types of training materials;
- evaluating legislator pay, stipends, and constituency accounts;
- assessing the coverage of floor action and committee meetings by the media;
- expanding the use of TVMT;
- evaluating the impact of open caucuses and term limits;

- discussing even-year or annual sessions; and
- planning for staff succession as the result of retirement.

I think many of us do care for the Legislature and the legislative process. Each legislative session provides the place where people from all over the state can gather and a forum where all areas and interests of the state are represented. The state benefits from debate on the

complexities of the modern world, which look different depending on a person's perspective.

I am committed to and ask all of you to assist the institution to be able to proudly wear the "I ♥ the Montana Legislature" button. I hope that all of us, the voters, legislators, and staff can take that to heart. The Legislature is representative of the state--after all democracy is of the people and by the people before it can be for the people.



INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED, ALL ROOM DESIGNATIONS ARE IN THE CAPITOL

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
December 2007						1
2	3	4	5	6 Revenue and Transportation Committee, Room 137, 8 a.m.	7 Revenue and Transportation Committee, Room 137, 7:30 a.m.	8
9	10	11 LFC performance measurement work groups, 9 a.m. Legislative Finance Committee, Room 102, 2 p.m. LFC subcomm. on budget and approp. 5 p.m. LFC subcomm. long range plan. 5 p.m.	12 Legislative Finance Committee, Room 102, 8 a.m.	13 Ed. & Local Gov. Committee: HB 49 Subcommittee PEPB Subcommittee, Rm. 102, 9 a.m. K-12 Subcommittee	14 Education and Local Government Committee, Room 137, 9:30 a.m.	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
January 2008						
		1	2	3	4	5
6	7 State Administration and Veterans' Affairs Committee, Room 102	8	9	10 Law and Justice Committee	11 Law and Justice Committee	12
13	14 Environmental Quality Council	15 Environmental Quality Council	16	17	18	19
20	21	22	23	24 Energy and Telecommunications Committee Children, Families, Health, and Human Services, SJR 15 study, Room 137	25 Children, Families, Health, and Human Services, Room 137	26
27	28	29	30	31		

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